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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,617	11/23/1999	DALE E. OLSEN	1416-FBI	5242

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EXAMINER
CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/448,617	Applicant(s) OLSEN, DALE E.	
	Examiner Kathleen M Christman	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/31/01* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16, 22-37, 43, 49, 50, 52, and 60-65* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16, 22-37, 43, 49, 50, 52, and 60-65* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

In response to amendment filed 10/31/01, claim 53 has been cancelled, claims 17-21, 38-42, 44-48, 51, and 54-59 remain withdrawn from consideration being drawn a non-elected invention, claims 1-16, 22-37, 43, 49, 50, 52 and 60-65 are pending in this application.

Election/Restrictions

1. This application contains claims drawn to an invention non-elected without traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or non-obviousness.

4. Claims 1, 2, 4-6, 9, 10, 14, 15, 43, and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in view of Best (US 5358259). James et al discloses an

interactive apparatus, which includes a plurality of video vignettes and audio responses, a plurality of statements to be selected by the user and logic means for relating each of the statements to be selected by the user with the audio responses and video vignettes. In particular the James et al patent discloses a system in which a plurality of possible statement options are given to the user, each of the statements is related to a response that is constructed of a series of prerecorded audio and video samples, see col. 6: 46-col. 7:47. The computer has a logic program referred to by James et al as the inference engine. Regarding claims 2, the personality profile of applicant's invention can again be interpreted as the "inference engine" disclosed by James et al. The inference engine receives the queries selected by the user and responds with a proper audio and video response. Claims 14 and 15 relate in scope to claims 1 and 2, respectively, and are rejected for the same reasons. Regarding claims 4-6, these claims are directed to providing selections to the used based on prior selections made by the user. Specific to claims 6, the broadest in scope, James et al discloses that a user will receive further questions that can be asked based on the prior series of questions in col. 11: 42-61. Similarly this applies to claims 4 and 5, which allow for alternative statements based on prior history of either audio or video, respectively. As the system interface of James et al uses both previously selected audio and video in its decision it would be obvious to one of ordinary skill in the art to separate this requirement. Claims 9 and 10 are similar in scope and are rejected for the same reasons. Regarding claim 43, the physical structure of the system that the James et al system may be run on is shown in col. 5: 7-23, under the heading "computer system".

James et al does not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question in the James et al system.

5. Claims 3, 7, 8, 11-13, 16, 22-37, 49, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in View of Harless (US 5730603) further in view of Best (US 5358259). Claims 22, 23, 25-27, 30, and 31 correspond to claims 1, 2, 4-6, 9, and 10 above, and claim 50 is dependent on claim 14, adding the limitation that the questions from the user must be spoken by the user. James et al provides for a microphone in the computer structure of the system implying that there may by verbal inputs but does not clearly state that the inputs are verbalized. Harless teaches a interactive system in which the user must verbalize their responses. Claims 35 and 36 correspond in scope to claims 22 and 23 and are rejected for the same reasons. Regarding claims 49 and 52, James et al does not specifically show that the system is voice activated. The system of Harless is voice activated in that it becomes active only once the user has spoken. Regarding claims 11 and 32, James et al does not directly teach that the personality profile emulator will be altered based on the user inputs. Harless teaches this in col. 8: 30-42. As both the system of James et al and the system of Harless disclose programs for interacting with virtual characters it would have been obvious to combine them as shown above in order to allow a user to speak commands both to select a response and to begin a program, and additionally to create a more realistic conversation system.

Regarding claims 7, 8, 12, 13, 28, 29, 33, and 34, neither James et al nor Harless directly teaches that a "performance score" is created. However, both systems are design to teach the user about interpersonal relationships. Scoring a user in the skill or skills they are developing is old and well known in the art. It would therefore be obvious to include this well-known feature into either of the systems.

Regarding claims 3, 16, 24, and 37, James et al does not specifically discloses that a response from the simulated person will be associated with the failure of a user to respond. Harless does disclose that prompts are shown to user to aid them through the process of learning the system, especially for a user not familiar with the system. Harless thus includes prompts that may be associated with the user not responding within a predetermined amount of time, see Figure 6. It would be obvious to include this into the James et al system so that an unfamiliar user would be able to realize when they were being requested to input an answer.

James et al and Harless do not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question within the James et al or the Harless system.

6. Claims 60, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harless (US 5730603). Harless clearly shows a system, method and computer readable medium which includes simulating a person, creating a plurality of statements to be verbalized by a user, creating means for recognizing the verbalized statement, creating a plurality of audio responses for articulation by the simulated person, creating logic means for interrelating each of said audio responses, said simulated person, and said statements to be verbalized by the user, see Figures 1, 4, 5 and 6.

Harless do not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question within the Harless system.

Response to Arguments

7. Applicant's arguments with respect to claims 1-16, 22-37, 43, 49, 50, 52 and 60-65 have been considered but are moot in view of the new ground(s) of rejection. The applicant is correct in stating that

Harless and James et al do not teach the uses of multiple responses. This limitation was newly added to the claims and the sole basis for applicant's arguments. As the applicant has not argued the basis for any other rejection the examiner assumes agreement with the rejections. The examiner would also like to note that James et al is not merely limited to an "informational retrieval system" as suggested by the applicant. James et al is directed to a method and system "for enhancing a user interface with a computer based training tool". In fact James et al discloses the uses of the invention in a simulation system, a database, an information retrieval system and an expert system, in col. 5: 29-33. There is nothing which limits the invention to use in any one of these embodiments. In addition, Best teaches the benefits of having the textual inputs similar to those of James et al in col. 5: 58+. These passages include further motivation for the combination of these references.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Kathleen M. Christman
Patent Examiner
March 21, 2002

Joe H. Cheng
Primary Examiner